

From: WESchro721@aol.com
Sent: Friday, February 06, 2004 4:08 PM
To: Currier, Paul M.; marge@nhacc.org
Cc: wberry@envirosystems.com; DICKHATA@aol.com
Subject: Water Transfers
Paul and Marjory:

I was astonished to read the proposals the NHDES is making with regard to changing the approach to permitting water transfers. This is to be discussed at the next meeting of the WQSAC on Monday, February 9, 2004. I will not be able to attend because of a death in my family. But I would appreciate it if you would read my comments (below) into the record of the discussion, and allow the others at the meeting to comment on them.

Comments on new approach to water transfers: Class A is OK

In the comments below "you" means NHDES and "lake" means lake, pond and any other applicable waterbody

1. In Surface Water Quality Regulations, Chapter 1700, it is quite clear that a Class A waterbody is supposed to be maintained as close to its natural condition as possible, and a Class B waterbody is permitted to be degraded, by human activity, from its natural condition so long as its quality is still good enough to support its existing and designated uses. That's the difference between Class A and Class B.

Your proposed rewrite of the regulations (e.g. EXCEPT WHEN DUE TO WATER TRANSFERS, Class A waters shall contain no color, unless naturally occurring) does violence to the basic philosophy. It leaves the whole chapter in confusion. If you can do all that to a Class A lake, what's the point of having A and B?

2. Your previous approach was the correct one. If someone wishes to transfer water into a lake, or do some other project which may pollute the lake, it should be a Class B lake so that the antidegradation provisions can be applied and a proper decision made. How can you apply antidegradation to a lake which is supposed to be maintained as close to natural as possible, period?

3. Class A lakes were classified as such by the legislature. That is a public act stating the intention for the lake which is the desire of the people. It can be changed if circumstances warrant, but only after public deliberation and a public act. Chapter 1700 says classifications can only be changed by the legislature. You are trying to circumvent the will of the legislature.

4. In your proposed rewrite, you set **no** limits for transferring water into Class A. At least for Class B there is a limit (in the example above the increased color cannot impair any existing or designated use). You probably meant to say "for water transfers into Class A waterbodies we would use the antidegradation rules appropriate for Class B". And that exposes the deception. What you are saying is "for water transfers, we will treat a Class A lake as if it were a Class B". You are administratively reclassifying it to Class B, for the purposes of water transfer, without due process.

5. What's so special about water transfer? If you do this for water transfer, how can you logically exclude other applications? What about point source discharge, or industrial development, or sewage discharge, why can't they get in on this? I foresee a raft of lawsuits from others wanting to get in on this permission.

6. Your stated mission is "to sustain a high quality of life for all citizens by protecting and enhancing the environment and public health in New Hampshire". I think it would be embarrassing for the Director of this Department to have to defend your proposed rewrite of the Water Quality Regulations in a courtroom. If you proceed in this direction you are inviting lawsuits from all sorts of environmental organizations.

7. In short, I think this approach is very unwise, and you should go back to the your previous path.

Sincerely yours,

Bill Schroeder

Vice President, Canobie Lake Protective Association
Phone: 603-898-6086 FAX: 603-898-6087
email: weschroeder@ieee.org